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Attorneys for DEFENDANT M&L  
BROTHERS PHARMACY, INC.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FRANCISCO DUARTE,

*Plaintiff,*

v.

M&L BROTHERS PHARMACY,  
INC., a California limited liability  
company; a California corporation;  
and Does 1-10,

*Defendant.*

Case No. CV 14-00029-ODW (Ex)

Hon. Otis D. Wright II

**DECLARATION OF MORGAN  
JONES IN SUPPORT OF  
DEFENDANT'S OPPOSITION  
TO PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT**

Courtroom: 11

Hearing: Monday, October 27, 2014  
Time: 1:30 p.m.

**Trial: January 6, 2015**

**DECLARATION OF MORGAN JONES**

I, Morgan Jones, declare:

1. All the statements contained herein are made and based on my  
personal knowledge and if called as a witness I could and would testify  
competently thereto.

2. I am an officer of defendant M&L BROTHERS PHARMACY, INC.  
and the operator of the business establishment, the property that is the subject of

1 this lawsuit. In performing those duties, I am familiar with most aspects of the  
 2 business, including those matters relating to its physical condition.

3 3. Prior to the date that I was served a copy of the complaint, I had no  
 4 notice whatsoever that Plaintiff had attempted to patronize Defendant's business.  
 5 Rather the first time that I learned even of Plaintiff's existence was when  
 6 Defendant was served with a copy of the complaint. Plaintiff never made a pre-  
 7 litigation demand.

8 4. Attached hereto as Exhibit 1 is a photograph of the entrance to the  
 9 parking lot servicing the business. The photograph at Exhibit 1 accurately depicts  
 10 the entrance signage and addresses the claim by Plaintiff that the tow away signage  
 11 is absent.

12 5. Attached hereto as Exhibit 1 is a photograph of the entrance to the  
 13 parking lot servicing the business. The photograph at Exhibit 1 accurately depicts  
 14 the entrance signage and addresses the claim by Plaintiff that the tow away signage  
 15 is absent.

16 6. Attached hereto as Exhibit 2 for identification is a google earth  
 17 photograph of the business from the street view. The photograph depicts the front  
 18 of the business, including the front of other business that share the building.

19 7. Attached hereto as Exhibit 3 for identification is a google earth  
 20 photograph of the parking lots in the vicinity of Defendant's business. The parking  
 21 lot adjacent to the business framed in blue is the only parking lot servicing the  
 22 business. The business has 7 parking spaces, including the handicap space. The  
 23 parking lot framed in red is not part of Defendant's business and does not service  
 24 the business. The picture is older and does not reflect the painted lanes in Exhibit  
 25 4.

26 8. Attached hereto collectively as Exhibit 4 are pictures of the handicap  
 27 parking spaces, including signage, and access aisle. The photographs at Exhibit 2  
 28 accurately depict the parking spaces and address the claims by Plaintiff that the

1 parking lot lacked handicap parking, a no parking notification on the access aisle,  
2 and that the paint was faded.

3 9. With respect to Plaintiff's photographs, these do not accurately depict  
4 conditions as I understand them to have existed, whether at the time that Plaintiff  
5 claims he went to Defendant's business or, as indicated below, at any time.

6 10. With respect to Plaintiff's first picture (Doc 19-6, page 1 of 16), the  
7 circled space and the space indicated by the upper red arrow are not part of  
8 Defendant's parking spaces. Defendant only operates the business at the lower  
9 right hand corner, formerly the drug store, and does not control any spaces other  
10 than those immediately to the left (in the first picture) of Defendant's business.

11 11. With respect to photographs at pages 2 through 4, 7, and 8 (Doc 19-6),  
12 those signs were not placed on the wall by me but, instead, by another business  
13 owner. I do not control any other spaces in the two parking lots, all of which are  
14 designated for other businesses.

15 12. As far as the striping depicted in the photographs goes, prior to even  
16 knowing about this lawsuit – in fact prior to when Plaintiff alleged that he went to  
17 my business – I arranged to have the parking area restriped.

18 13. Attached as Exhibit 5 is the Bill Payment Stub to Centerline Striping  
19 for the repainting of the parking space and access aisle. My best recollection is that  
20 the striping was done before this payment was made.

21 14. Regarding the photographs at pages 9 and 10, Plaintiff's claim that the  
22 sign indicates additional parking mischaracterizes what the sign was intended to  
23 show. It does not state that there is additional parking – and in fact there is not for  
24 Defendant's business. Rather, the additional parking sign was put up by the owner  
25 of a bar in a near-by business served by the parking lots to advise and encourage  
26 his patrons to continue through Defendant's lot to the other parking areas.

15. The photographs at pages 14 through 16 are not of parking spaces in Defendant's area and are not available for Defendant's business. Rather, they belong to other business at that site.

16. With respect to Plaintiff's claim that he went to Defendant's pharmacy on or around August 2, 2013, that would not have been possible. Defendant sold its pharmacy business to Walgreens. The date of the transfer of all of the files (clients/customers) was June 14, 2013. At that point, all of the pharmacy-related items were removed from the business location. From that date of transfer, Defendant could not and did not dispense any prescriptions. The fact that the pharmacy had been closed was and is obvious to anyone coming into the business. Because the pharmacy was closed, Defendant would not have told Mr. Duarte that it did not have his prescription, as he states; rather, he would have been informed that the pharmacy department is closed and the records were transferred to Walgreens.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed on October 6, 2014 at Monterey Park, California.

/s/

Morgan Jones

**EXHIBIT 1**

**PHOTOGRAPHS OF PARKING LOT ENTRANCE**



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**EXHIBIT 2**

**GOOGLE EARTH DEPICTION OF BUSINESS**



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**EXHIBIT 3**

**GOOGLE EARTH DEPICTION OF PARKING LOTS**



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**EXHIBIT 4**

**PHOTOGRAPHS OF PARKING SPACES AND ACCESS AISLE**



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## EXHIBIT 5

## BILL PAYMENT STUB

06/08/2014 2013 0203030023

JUNES

PAGE 03/14

## Bill Payment Stub

VICTORY ASSOCIATES  
17325 BELLFLOWER BLVD.  
BELLFLOWER, CA 90706

Paid To: CENTERLINE STRIPING  
PO BOX 4518  
DOWBNEY, CA 90241

Check Date:	7/29/2013
Check No.:	211680
Check Amount:	300.00

Date	Type	Reference	Original Amt.	Balance	Discount	Payment
7/29/2013	Bill	1496B	300.00	300.00		300.00

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